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EXAMINER
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ZURITA, JAMES H

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/507,262

Applicant(s)

WALKER ET AL.

Examiner

James H Zurita

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 98-111, 113-125, 127-137, 139-150, 152-165, 167-179 and 181 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 98-111, 113-125, 127-137, 139-150, 152-165, 167-179 and 181 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2 December 2003 has been entered.

### ***Response to Amendment***

Claims 98-111, 113-125, 127-137, 139-150, 152-165, 167-179 and 181 are pending and will be examined.

By Amendment of 2 December 2003, Applicants amended claims 98, 113, 127, 139, 152 and 168.

### ***Response to Arguments***

Applicant's arguments filed 2 December 2003 have been fully considered but they are not persuasive.

Applicant again argues that

The Examiner has rejected each of the pending claims in view of two references to Koepper and *Elliott*, and extensive use of **Official notice**. ...the cited references fail to disclose or suggest a number of features recited in the instant claims. The Examiner concedes that the cited references fail to disclose a number of features, but relies extensively on **Official notice** to reject the claims.

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The Examiner respectfully notes that these arguments were considered and found unpersuasive in the previous Office Action. Nevertheless, the Examiner again carefully considered the arguments with regard to the newly amended claims. The arguments remain unpersuasive.

Applicant also argues

... Applicants respectfully submit that the Examiner's reliance on Official notice highlights the fact the cited references clearly fail to disclose or suggest the features of the pending claims....

... The Examiner however takes "official notice that payments from financial accounts, including debit, credit and charge accounts/cards, are notorious and well known to those of ordinary skill in the art at the time of the invention was made. Examiner takes official notice that at least these types of accounts have identifiers that may be used to provide guaranteed payment in exchange for at least travel services and airline tickets." Page 14 of the office action.

... Despite the purported teachings of the cited references, and the Examiner's position that missing features within the cited references are cured by extensive use of Official notice, priceline.com has received and processed millions of conditional purchase offers through its website. Applicants respectfully request that the Examiner consider this powerful evidence of the non-obviousness of Applicants' claimed invention. (Amendment C, pages 14-16)

Again, the Examiner respectfully asserts that

- (a) Examiner's use of *Official notice* is proper and correct
- (b) all facts noted by the Examiner are well-known and are part of knowledge generally available to one of ordinary skill in the art
- (c) the combination of prior art and the knowledge generally available to one of ordinary skill in the art is correct.

The Examiner again respectfully notes that applicant has not argued or shown otherwise.

As noted in the previous Office Action, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

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A "traverse" is a denial of an opposing party's allegations of fact.<sup>1</sup> The Examiner respectfully submits that applicants' arguments and comments do not traverse what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention was made. Even if one were to interpret applicants' arguments and comments as constituting a traverse, applicants' arguments and comments do not constitute an adequate traverse because applicant has not specifically pointed out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. 27 CFR 1.104(d)(2), MPEP 707.07(a). An adequate traverse must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying Examiner's notice of what is well known to one of ordinary skill in the art. In re Boon, 439 F.2d 724, 728, 169 USPQ 231, 234 (CCPA1971).

If applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). MPEP 2144.03 Reliance on Common Knowledge in the Art or "Well Known" Prior Art.

In view of applicant's failure to traverse official notice, the following are admitted prior art::

- A system is user-friendly when the system can determine how to access inventory according to specific criteria. Some examples follow, along with possible benefits to both buyers and sellers.

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<sup>1</sup> Definition of Traverse, Black's Law Dictionary, "In common law pleading, a traverse signifies a denial."

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- A system may access inventory according to seller-negotiated priorities. Kopper discloses several instances where a seller would want to prioritize availability of inventory: number of rooms available on a given night (for example, Koepper, page 26, column 3, paragraph 2), or number of seats available on particular flights, possibly based on cancellation by a large group of travelers (for example, Koepper, page 29, column 1, paragraph 2). These occurrences are a normal part of everyday commerce. Therefore, one of ordinary skill in the art would have included in Koepper the capability to access inventory according to seller-negotiated requirements. Seller requirements may include that particular sets of rooms/seats be sold as quickly as possible, perhaps at a greater discount or with a higher commission rate to an agent. Both buyers and sellers benefit: sellers can get some revenue for inventory that would have otherwise produced no revenue. Buyers can obtain even greater discounts on inventory possibly in exchange for less convenient schedules.
- Authentication in the normal world uses logon id's and passwords, other information may be used to authenticate a user. For example, one may use a pet's name as a logon id and the pet's birthday as the password. While some systems restrict the number of characters for each field, other systems may not. Since authentication is merely a way of identifying a user, a user may use any combination of upper/lower case letters and numbers. A number that is not easily identified as related to a particular purpose well include 30-digit numbers, 20-digit numbers, 16-digit numbers such as a credit card number. Alternatively, one can combine a number with many digits with letters, such as a pet's name.
- Authentication is common and *well known*, and may include logon id's and passwords, electronic signatures and cryptographic techniques.. Authentication is critical in a system such as Koepper describes. The system collects information such as an airline's or hotel's inventory. Without authentication, a user may access the system and obtain information about competitor's discounted offerings. With this information, a seller may well identify a competitor's pricing structures and vulnerabilities. When a system authenticates a user's access, the system prevents one user from accessing data belonging to others. This type of protection is critical when storing credit card numbers and other buyer information. Electronic commerce demands the ability of users to feel that their information is not available to unauthorized parties.
- By having ... functions be performed with web pages and browsers, a system can take advantage of widely available technology that has permitted enormous growth of electronic commerce. This growth translates into more jobs, more shopping opportunities and increased benefits worldwide.
- Browsers and web pages are user-friendly ways of letting buyers enter and submit data on their personal computers. Often, a web site may present buyers with web pages that have blank fields. A buyer may enter one or more conditions of his offer in a blank field. The browser may validate input data on a web page with client-side scripts, using *well known* techniques, including JAVASCRIPT, applets, or their MICROSOFT equivalents.
- Cancellation fees and other types of charges, regardless of their names, are old and *well known*. Cancellation fees are *well known* ways of ensuring that contracts are legally binding, since a person would not normally pay a cancellation fee unless he was required to do so. It is *well known* that legally binding cancellation fees may be set as sums certain or as percentages of items in question. These amounts may be less than or equal to a full offer price. Additionally, for other types of items, the amounts may also be greater than a full offer price.

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- In electronic commerce particularly, the use of credit cards and other types of financial accounts assure sellers that their payment is guaranteed by financial institutions that issued corresponding accounts, their identifiers and plastic cards with magnetic strips, as applicable.
- It is *well known* that legally binding cancellation fees may be set as sums certain or as percentages of items in question. These amounts may be less than or equal to a full offer price. Additionally, for other types of items, the amounts may also be greater than a full offer price.
- it would make sense for the system to access inventory according to historical acceptance rate of a seller. A buyer such as a travel agency may wish to obtain results in the shortest amount of time. One way of being time-efficient is to search among those sellers who have a reputation for flexibility by accepting more offers from buyers. By marketing this reputation, sellers attract buyer offers and increase the total number of sales for an intermediary such as a travel agency.
- Koepper compares buyer offers and conditions with seller inventory. This inventory contains seller-defined rules and data. When the system finds matching seller-defined inventory and rules, the system determines that the buyer's offer and conditions are acceptable. Koepper's accepts the buyer's offer on behalf of a seller when a buyer's offer matches seller's conditions. Koepper creates appropriate buyer record(s) and transmits the information as an electronic record to the appropriate sellers. Where a seller is an airline, the record is commonly referred to as a passenger name record (PNR), of which Examiner takes *Official notice*. For example references to booking and getting the business, page 26, column 1, paragraphs 3-4.
- Koepper describes a dynamic, interactive system and network with centralized databases that store buyer offers and seller dynamic inventory for the travel and airlines industry (for example figure on page 29, Information and Trading System for the Travel Industry). Travel services may include at least airline ticket(s), hotels and car rentals. Buyers access the database via central reservations systems via on-line service providers such as CompuServe/AOL. Buyers may be travel agents or the general public. Buyers specify conditions of their purchase offers, including dates they wish to travel, hotel accommodations and an offer price that a buyer is willing to pay for the travel accommodations. The offer may also specify expiration dates to inform sellers how long a buyer will insist on the terms of his offer. See at least page 26, column 1, paragraphs 2, 3, 4. The system receives a buyer's offer and conditions, including price, and stores the information in the database.
- Payment identifiers specifying financial accounts to provide guaranteed payment in exchange for at least travel services and airline tickets are considered well tested, reliable and convenient to use. In electronic commerce particularly, the use of credit cards and other types of financial accounts assure sellers that their payment is guaranteed by financial institutions that issued corresponding accounts, their identifiers and plastic cards with magnetic strips, as applicable.
- payments from financial accounts, including debit, credit and charge accounts/cards, are notorious and *well known* to those of ordinary skill in the art at the time the invention was made. Examiner takes *official notice* that at least these types of accounts have identifiers that may be used to provide guaranteed payment in exchange for at least travel services and airline tickets. Payment identifiers may include a number that associates a credit account or a debit account with an account at a financial institution. These numbers are often embossed in a corresponding plastic card. Cards often have magnetic strips, microchips, or other means for storing more information. It is *well known* in the art of electronic commerce to check whether a buyer has sufficient credit or funds in a corresponding account by requesting

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pre-authorization from a financial clearinghouse institution. The authorization request for an amount may be accepted or denied by the institution. See disclosures of prior art and references to commonly known payment methods in parent application, in at least Col. 20, line 49-Col. 21, line 67.

- The World Wide Web, browsers, and other conventional communications software are *well known*, as disclosed by applicant. Network interfaces to the internet and any commercial on-line services such as CompuServe are old and *well known* (Walker et al., US Patent 5,794,207, see at least Col. 14, lines 8-52).
- When a buyer's offer includes the condition that he wants to stay at a 4-star hotel, for example, it would be ineffective for the system to begin a search sequentially from 0-star hotels, 1-star hotels, etc. Similarly, if a buyer states he wants to travel from San Francisco to New York, it would not make sense to have the system search sequentially in alphabetical order for flights from San Francisco to Anchorage, then San Francisco to Burbank, etc. It makes more sense to have a system search only for flights to New York. Once a system has found all flights to New York, a system is more effective and user-friendly if it presents the data according to date and time of service. Buyers may have preferences concerning what airlines they prefer and which carriers they will avoid; the system may present data that includes or excludes carriers. Thus, the system may access inventory according to buyer priorities. When buyers are travel agencies, it would make sense to have a system first check the inventory of those sellers that provide higher commission rates. This provides benefit to both the agent and the seller, in that the agent will be more likely to prefer those carriers that pay more over those carriers that provide lower commissions. Thus, agents receive more money for his work, and the seller increases sales of his inventory.
- Where a seller is an airline, the record is commonly referred to as a passenger name record (PNR), of which Examiner takes *Official notice*. See at least references to booking and getting the business, page 26, column 1, paragraphs 3-4.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicants argue against the combination of Koepper and Elliot with applicant's admissions of prior art (see above, for example) and knowledge generally available to one of ordinary skill in the art. In response, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208



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USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves *or in the knowledge generally available to one of ordinary skill in the art*. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). As noted in the Final Office Action, Applicants have not shown that it would have been erroneous to combine Koepper with knowledge generally available to one of ordinary skill in the art, or that such combination would not have been obvious to one of ordinary skill in the art.

The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the *combined* teachings of the references would have suggested to those of *ordinary skill in the art*. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Applicant argues that

...Applicants further note that the claimed invention, as embodied in the services of assignee priceline.com, has achieved significant **commercial success**, thereby providing further **evidence** in support of the non-obviousness of Applicants' claimed invention. Despite the purported teachings of the cited references, and the Examiner's position that missing features within the cited references are cured by extensive use of Official notice, priceline.com has received and processed millions of conditional purchase offers through its website. Applicants respectfully request that the Examiner consider this powerful evidence of the non-obviousness of Applicants' claimed invention.

In response to these arguments, the Examiner respectfully notes that while applicant may be his or her own lexicographer, a term may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). Applicant's use of the term "...evidence [sic]..." is misleading and inconsistent with their meaning and usage.

Nevertheless, the Examiner will address applicant's arguments.

A) The statements are not affidavits An *affidavit* is a sworn statement in writing made under *oath* or on affirmation before an authorized magistrate or officer.<sup>2</sup> An *affidavit* is a written or printed *declaration* or statement of facts, made voluntarily, and confirmed by the *oath* or affirmation of the party making it, taken before a person having authority to administer such *oath* or affirmation.<sup>3</sup>

The Examiner respectfully notes requirements of *affidavits* and *declarations*:

**715.04 Who May Make Affidavit or Declaration; Formal Requirements of Affidavits and Declarations FORMAL REQUIREMENTS OF AFFIDAVITS AND DECLARATIONS**

An affidavit is a statement in writing made under oath before a notary public, magistrate, or officer authorized to administer oaths. See MPEP § 604 through § 604.06 for additional information regarding formal requirements of affidavits.

37 CFR 1.68 permits a declaration to be used instead of an affidavit. The declaration must include an acknowledgment by the declarant that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon. The declarant must set forth in the body of the declaration that all statements made of the declarant's own knowledge are true and that all statements made on information and belief are believed to be true. MPEP 714.04

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<sup>2</sup> Definition of *Affidavit*, Merriam Webster's Collegiate Dictionary.

<sup>3</sup> Definition of *Affidavit*, Black's Law Dictionary.

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Similarly, MPEP §§ 602.01 and 602.02 describe requirements for *oaths* or *declarations*. In the instant application, the statements are defective because:

- The specification to which the statement is directed has not been adequately identified. See MPEP § 601.01(a).
- The clause regarding "willful false statements ..." required by 37 CFR 1.68 has been omitted.
- The statements do not include the notary's signature.

B) Applicant fails to identify these materials as having been filed under 37 CFR 1.131 or 37 CFR 1.132 The Examiner respectfully submits, however, that the statements (evidence of commercial success) appear to correspond to materials that would be filed under 37 CFR 1.132.

C) The statements are not directed to the subject matter of the claimed invention. The claims were amended to include "...receiving a payment identifier specifying a financial account for use in providing guaranteed payment for at least the amount of the offer price for the travel services if the bid is accepted..."

D) The Submitted Statements are not evidence by way of Oath or Declaration

The Examiner respectfully notes the language of MPEP 716, concerning Affidavits or Declarations Traversing Rejections, 37 CFR 1.132.

37 CFR 1.132 Affidavits or declarations traversing rejections or objections.

When any claim of an application or a patent under reexamination is rejected or objected to, any evidence submitted to traverse the rejection or objection on a basis not otherwise provided for ***must be by way of an oath or declaration under this section.*** (emphasis added)

Since the statements are ***not*** affidavits or declarations, they are insufficient to overcome the rejection of claim 1 based upon 35 U.S.C. 103 in the previous Office action. Nevertheless, as per MPEP 2141 (Objective Evidence Must Be Considered), the Examiner will evaluate and accord the statements and

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exhibits appropriate weight in determining obviousness under 35 U.S.C. 103. In view of the foregoing, when all of the evidence is considered, the totality of the rebuttal evidence of nonobviousness fails to outweigh the evidence of obviousness.

### ***Claim Objections***

Claims 165 and 179 is objected to because of the following informalities, which appear to be word processing errors. For purposes of this examination, the Examiner will interpret the claims as referring to "...method of claim 152..." and "...method of claim 168..." respectively. Correction is required.

Claim 165 reads "... (Previously Amended) The system of claim 152, wherein ..." Independent claim 152 is directed to a method.

Claim 179 reads "... (Previously Amended) The system of claim 168, wherein..." Independent claim 168 is directed to a method.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 98-111, 113-125, 127-137, 139-150, 152-165, 167-179 and 181** are rejected under 35 U.S.C. 103(a) as being unpatentable over an article by Peter S. **Greenberg**, entitled "Lower Air Fares for Consumers Not in the Cards Airlines: Remember when it cost \$16 to fly from Los Angeles to San Francisco?" The Los Angeles Times (Pre-1997 Fulltext). Los Angeles, Calif.: Jul 8, 1990, pg. 2, accessed from the Internet on 7 March 2004, ProQuest document ID:

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60108943 (hereinafter **Greenberg**), in view of "Room Inventory Auctioning: The Next CRS Generation," by Ken Koepper, January 1990, Lodging, pages 26-30 (hereinafter **Koepper**), in view of an article by Elaine **Elliott** entitled "CRS's in Cyberspace" Travel Agent, March 6, 1995, accessed from DialogWeb on 22 August 2002 (hereinafter **Elliott**).

As per claims 98, 113, 127, 139, 152 and 168, **Greenberg** discloses methods for using a computer to process the sale of travel services, comprising:

**receiving a bid** (applicant's conditional purchase offer) including an offer price from a customer for purchasing travel services (such as airline tickets, hotel rooms and cars, for example)

...prospective airline passengers would electronically submit their bids for seats on specific flights via their home personal computers. The request would list departure dates, times and the price the passenger is willing to pay.

**receiving a payment identifier** specifying a financial account for use in providing guaranteed payment for at least the amount of the bid price for the travel services if the bid is accepted

...passenger bids would be **firm fare offers, backed by a credit card**.

**comparing** said bid with seller inventory and pricing information stored on a central reservation system to determine if said bid is acceptable

... the computer would compare bid prices with anonymously placed "sell" orders by the airlines and then make a match.

**accepting said bid** on behalf of the seller

...Airlines would then review the bids and pick the ones they wanted to accept. (This would also apply to hotel rooms and rental cars.)

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***charging*** said payment identifier; and

If the airline accepted the bid, the passenger would then be charged for the ticket...

***notifying*** the customer of acceptance of said bid. For example, customers would be notified that their cards have been charged for the amounts of their bids. In addition, customers use their PC's to interact with the system.

*Greenberg does not* specifically disclose utilizing the web page to access and purchase travel services (including at least one airline ticket), as in claims 98(a), 113(a), 152 (a). *Elliott* discloses the use of web pages to access centralized systems for purchasing travel services. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine *Greenberg* and *Elliott* disclose the use of the Internet and web pages to access and purchase travel services. One of ordinary skill in the art at the time the invention was made would have been motivated to combine *Greenberg* and *Elliott* to disclose the use of the Internet and web pages to access and purchase travel services for the obvious reason that the use of web pages across networks such as the Internet makes it easier for customers to interact with their personal computers.

*Greenberg does not* specifically disclose creating a passenger name record (PNR) and transmitting the PNR to the central reservation system. *Greenberg* discloses that airlines follow yield management practices of controlling seat inventory. Airlines need to know how many seats are booked on particular flights and an airline would be able to better allocate their seats.

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Sellers create appropriate buyer record(s) and transmit information as an electronic record to the appropriate sellers. Where a seller is an airline, the record is commonly referred to as a passenger name record (PNR). The information is collected by a centralized system in the form of a record (PNR), a record is created and sent to appropriate carriers. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine *Greenberg* and knowledge generally available to one of ordinary skill in the art at the time the invention was made to disclose creating and transmitting a PNR to central reservations systems.

One of ordinary skill in the art at the time the invention was made would have been to combine *Greenberg* and knowledge generally available to one of ordinary skill in the art at the time the invention was made to disclose creating and transmitting a PNR to central reservations systems for the obvious reason that by using formats that are standard and acceptable across different carriers and reservations systems different carriers lower their costs. Creating and sending data and information among different types of computer systems facilitates information exchange and permits better utilization of resources. This cuts down operating costs and permits a company to increase profits.

*Greenberg* and *Elliott* do not disclose that customer accesses the web page which displays an electronic form containing a number of blanks to be filled out by the customer, the blanks representing conditions of the conditional purchase offer (claims 106, 121, 160).

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The World Wide Web, browsers, and other conventional communications software are well-known, as disclosed by applicant. Network interfaces to the internet and any commercial on-line services such as CompuServe are old and well-known.

*Elliott* discloses the use of browsers, web pages and HTML for inputting and submitting information to centralized databases related to travel and airlines. *Elliott* discloses the use of central reservations systems by buyers to access airline and travel related services.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Greenberg, *Elliott* and knowledge generally available to one of ordinary skill in the art at the time the invention was made to permit buyers to access a database and store conditions related to buyer offers via web pages and HTML fields.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Greenberg, *Elliott* and knowledge generally available to one of ordinary skill in the art at the time the invention was made to permit buyers to access a database and store conditions related to buyer offers via web pages and HTML fields for the obvious reason that browsers and web pages are user-friendly ways of letting buyers enter and submit data on their personal computers. Often, a web site may present buyers with web pages that have blank fields. A buyer may enter one or more conditions of his offer in a blank field. The browser may validate input data on a web page with client-side scripts, using well-known techniques, including JAVASCRIPT, applets, or their



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MICROSOFT equivalents. By having Greenberg's functions be performed with web pages and browsers, a system can take advantage of widely available technology that has permitted enormous growth of electronic commerce. This growth translates into more jobs, more shopping opportunities and increased benefits worldwide.

*Greenberg and Elliot do not* specifically disclose accessing information for each seller in a predefined sequence on the central reservation system (claims 99, 140, 153, 169) or on an airline reservation system (claims 114, 128).

*Greenberg and Elliott do not* specifically disclose a predefined sequence that is based upon the historical acceptance rate of each seller (claims 100, 115, 129, 141, 154, 170), or based upon seller-negotiated priorities (claims 101, 116, 130, 142, 155, 171), or based upon the commission rates paid by the seller (claims 102, 117, 131, 143, 156, 172),.

Koepper accesses seller inventory to match conditions of a buyer's offer. Koepper discloses different sequences for accessing and matching buyers and sellers, including time-limits, dates and times of travel, hotel accommodations (for example, 4-star hotels) and price ranges (*for example* p. 26, column 1, paragraphs 2, 3, 4). These and other conditions may predefine the sequences used to access each seller's inventory. Koepper discloses that each seller may drop their prices and accept a buyer offer *before* a buyer's *expiration period* runs out. The *first* airline and hotel that OK the bid get the business. *For example* page 26, columns 1-2. Koepper *does not* specifically disclose that predefined

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sequence may be based on (a) historical acceptance rate of a seller, or (b) seller-negotiated priorities or (c) commission rates paid by a seller.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine *Greenberg*, Elliott, Koepper and knowledge generally available to one of ordinary skill in the art at the time the invention was made to disclose that inventory may be accessed according to various criteria such as (a) historical acceptance rate of a seller, or (b) seller-negotiated priorities or (c) commission rates paid by a seller.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine *Greenberg*, Elliott, Koepper and knowledge generally available to one of ordinary skill in the art at the time the invention was made to disclose that inventory may be accessed according to various criteria such as (a) historical acceptance rate of a seller, or (b) seller-negotiated priorities or (c) commission rates paid by a seller for the obvious reason that a system is more effective when it is user-friendly. A system is user-friendly when the system can determine *how* to access inventory according to specific criteria. Some examples follow, along with possible benefits to both buyers and sellers.

When a buyer's offer includes the condition that he wants to stay at a 4-star hotel, for example, it would be ineffective for the system to begin a search sequentially from 0-star hotels, 1-star hotels, etc. Similarly, if a buyer states he wants to travel from San Francisco to New York, it would not make sense to have the system search sequentially in alphabetical order for flights from San Francisco to Anchorage, then San Francisco to Burbank, etc. It makes more

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sense to have a system search only for flights to New York. Once a system has found all flights to New York, a system is more effective and user-friendly if it presents the data according to date and time of service. Buyers may have preferences concerning what airlines they prefer and which carriers they will avoid; the system may present data that includes or excludes carriers. Thus, the system may access inventory according to buyer priorities. When buyers are travel agencies, it would make sense to have a system first check the inventory of those sellers that provide higher commission rates. This provides benefit to both the agent and the seller, in that the agent will be more likely to prefer those carriers that pay more over those carriers that provide lower commissions. Thus, agents receive more money for his work, and the seller sells more inventory.

*Greenberg* and Elliott do *not* specifically disclose that the financial account is a debit account (claims 107, 122, 134, 146, 161, 175). As per applicant admissions, payments from financial accounts, including debit, credit and charge accounts/cards, are notorious and well known to those of ordinary skill in the art at the time the invention was made. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine *Greenberg*, Elliott and admitted prior art, including knowledge generally available to one of ordinary skill in the art at the time the invention concerning financial accounts, including debit accounts and credit accounts to disclose that a customer may use a financial account that is a debit account. One of ordinary skill in the art at the time the invention was made would have been motivated to combine *Greenberg*, Elliott and admitted prior art, including knowledge generally available to one of

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ordinary skill in the art at the time the invention concerning financial accounts, including debit accounts and credit accounts to disclose that a customer may use a financial account that is a debit account for the obvious reason that debit accounts, debit cards, credit accounts, credit cards are often used interchangeably by customers to pay for purchases. This interchangeability permits customers to have great flexibility in budgeting their personal expenses.

*Greenberg* and Elliot do *not* specifically disclose that a customer's bid includes an expiration date, as in claims 103, 118, 132, 144, 157, 173. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine *Greenberg*, *Elliott* and knowledge generally available to one of ordinary skill in the art to disclose that a bid would include an expiration date. One of ordinary skill in the art at the time the invention was made would have been motivated to combine *Greenberg*, *Elliott* and knowledge generally available to one of ordinary skill in the art to disclose that a bid would include an expiration date for the obvious reason that customers often have limits as to how much time they can go away on holidays. For example, if a customer has a limited number of vacations days and he wishes to spend them to meet his wife and children in Florida during the 1990 Christmas period, the customer would wish to specify an expiration date. Otherwise, an airline might force him to accept travel at the end of January 1995. This might create ill feeling on the part of the customer towards the airline. In addition, the customer's wife may be upset when the husband does not appear in Florida to be with her and their children during the 1990 Christmas period.

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*Greenberg* discloses that goods or services includes at least one of an airline ticket, an automobile, insurance, computer equipment and a hotel accommodation (claim 110). *Greenberg* discloses that travel services includes at least one of an airline ticket and a hotel accommodation (claims 149, 181, 167). See, for example, references to airline tickets.

*Greenberg* discloses that financial account is a credit account (claims 108, 123, 135, 147, 162, 176). See references to credit cards.

*Greenberg* discloses that seller inventory and pricing information includes seller-defined rules (claims 104, 119, 133, 145, 158, 174). See, for example, references to anonymously placed 'sell' orders by airlines. Seller-defined rules may include prices, dates, times.

*Greenberg* discloses that payment for the goods or services is guaranteed (claims 164, 178). See, for example, references to firm offers, backed by a credit cards.

*Greenberg* discloses pre-authorizing the offer price of the bid with a financial clearinghouse (claims 109, 124, 136, 148, 163, 177). *Greenberg* discloses obtaining pre-authorization to charge the financial account for the travel services prior to consideration of the bid (claims 111, 125, 137, 150, 165, 179). See, for example, references to *firm offers, backed by a credit card*. Credit card charges may be rejected by credit card companies if the amount being charged exceeds the maximum credit available to a customer. When not rejected, the charges are paid to a seller by the credit card company. Credit card transactions are handled by clearinghouses.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H Zurita whose telephone number is 703-605-4966. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 703-308-3588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*JZ*  
**James Zurita**  
**Patent Examiner**  
**Art Unit 3625**  
6 March 2004

  
**Jeffrey A. Smith**  
**Primary Examiner**